

**Notice of Allowability****Application No.**

10/632,219

**Applicant(s)**

MCDONALD, THOMAS

**Examiner**

Jesse R. Moll

Art Unit

2181

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS**. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Request for continued examination on 29 August 2006.

2.  The allowed claim(s) is/are 1, 2, 5-11, 13 and 15-23 renumbered as 1-19.

3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 29 August 2006
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5.  Notice of Informal Patent Application

6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.

7.  Examiner's Amendment/Comment

8.  Examiner's Statement of Reasons for Allowance

9.  Other \_\_\_\_\_.

*Fritz Fleming*  
FRITZ FLEMING  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100  
9/18/2006

## DETAILED ACTION

1. Acknowledgment of papers filed: IDS on 29 August 2006. The papers filed have been placed on record.

### *Allowable Subject Matter*

2. Claims 1, 2, 5-11, 13 and 15-23 renumbered as 1-19 are allowed.

The following is an examiner's statement of reasons for allowance:

The claims limit the invention to tangible embodiments. Claims 22 and 23 (renumbered 18 and 19) recite the limitation "A program embodied on a computer readable medium". As Applicant's specification shows (paragraph 0142), a "computer readable medium" is limited to statutory tangible embodiments, which is clearly distinct from a "computer readable transmission medium" which is limited to non-statutory intangible embodiments. This distinction is further evidenced by the amendment made to claims 22 and 23 (renumbered 18 and 19).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

3. Applicant's arguments, see remarks, filed 2 June 2006, with respect to rejections under 35 U.S.C. 101 and allowable subject matter have been fully considered and are persuasive. The rejections of claims 1, 2, 5-11, 13 and 15-23 have been withdrawn.
4. Applicant, via amendment, has overcome the rejection under 35 USC § 112 to claims 9-17 set forth in the previous Office Action. Consequently, this rejection has been withdrawn by the examiner.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesse R. Moll whose telephone number is (571)272-2703. The examiner can normally be reached on M-F 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fritz M. Fleming can be reached on 571-272-4145. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner  
Art Unit 2181

JM 9/18/06

  
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9/18/2006